

## Message Text

LIMITED OFFICIAL USE

PAGE 01 LISBON 00722 022016Z

67

ACTION EUR-12

INFO OCT-01 ISO-00 L-03 AID-05 CIAE-00 COME-00 EB-07

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03

SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 NSC-05 SS-15

STR-04 CEA-01 SAM-01 H-02 AF-06 /092 W

----- 014187

R 021543Z FEB 76

FM AMEMBASSY LISBON

TO SECSTATE WASHDC 5875

LIMITED OFFICIAL USE LISBON 722

E.O. 11652: N/A

TAGS: EINV, PO

SUBJ: REVISED DRAFT FOREIGN INVESTMENT CODE

REF: (A) STATE 21959, (B) LISBON 216

1. CURRENT DRAFT OF FOREIGN INVESTMENT CODE DOES NOT, IN EMBASSY'S VIEW, NECESSARILY REDUCE NUMBER OF INVESTMENT-RELATED ACTIVITIES REQUIRING PRIOR GOVERNMENT APPROVAL. SUCH A POSSIBILITY DEPENDS HEAVILY ON FUTURE INTERPRETATION AND IMPLEMENTATION. ALL FOREIGN INVESTMENTS WILL REQUIRE GOVERNMENT APPROVAL, BUT DRAFT CODE SEEKS TO SIMPLIFY PROCEDURES SIGNIFICANTLY. POTENTIAL FOREIGN INVESTOR SHOULD NO LONGER BE OBLIGED TO SECURE APPROVALS FROM A NUMBER OF GOVERNMENT AGENCIES, AS HE HAD TO DO DURING SALAZAR/CAETANO REGIMES. INSTEAD, HE WILL DEAL SOLELY WITH BANK OF PORTUGAL AND, SUBSEQUENTLY, ONLY WITH FOREIGN INVESTMENT INSTITUTE.

2. PROPOSED INVESTMENT CODE IS CLEARLY CLOSER TO REGULATIONS OF THIRD WORLD COUNTRIES THAN TO WESTERN EUROPE. DRAFTERS OF CODE SHARE MUCH THE SAME ATTITUDES AND SUSPICIONS OF FOREIGN INVESTMENT AS THEIR LDC COUNTERPARTS. GOP FOR EXAMPLE, UNLIKELY TO APPROVE ICSID CONVENTION

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LISBON 00722 022016Z

DURING FORESEEABLE FUTURE. AS ONE HIGHLY INFLUENTIAL

GOVERNMENT OFFICER SAID RECENTLY, HOWEVER, PORTUGUESE LAWS ARE SUBJECT TO FUTURE REVISION. AS POWERS OF VARIOUS POLITICAL FORCES SHIFT, PROVISIONS OF INVESTMENT CODE MAY CHANGE SIGNIFICANTLY.

3. PARAGRAPH 7C OF REF B SHOULD HAVE READ: "TRANSFER PRICING WHICH PERMITS ILLEGAL CAPITAL OUTFLOWS OR AVOIDANCE OF PORTUGUESE LEGAL OBLIGATIONS IS FORBIDDEN."

4. PERIODS ALLOWED FOR RESPONSE TO INVESTMENT PROPOSALS IS ADMITTEDLY LONG. ACTUALLY, DRAFT CODE PROVIDES FOR RESPONSE WITHIN 90 DAYS. HOWEVER, THIS TIME LIMIT CAN BE EXTENDED FOR ONE ADDITIONAL 90-DAY PERIOD FOR INVESTMENTS UNDER "NORMAL" REGIME AND FOR TWO ADDITIONAL 90-DAY PERIODS FOR CONTRACTUAL INVESTMENTS.

5. GENERAL REACTION OF PRIVATE SECTOR HAS BEEN NEGATIVE. WHEN DISCUSSING SPECIFIC OBJECTIONS, THEY NOTE REQUIREMENT THAT ALL FOREIGN PERSONNEL MUST EVENTUALLY BE REPLACED; RIGID ANNUAL, AS OPPOSED TO MULTI-YEAR AVERAGE, LIMITS ON REMITTANCES; VAGUELY DEFINED BASE FOR REMITTANCES; AND RESTRICTIONS ON REINVESTMENTS. THEY NOTE ALSO THAT CONSTITUTIONAL REFORM AND OTHER MAJOR LEGISLATION MAY PREVENT INTERPRETATION OF CODE THAT FAVORS FOREIGN INVESTORS.

6. GOVERNMENT OFFICIALS HAVE EXPRESSED DIVERGENT ATTITUDES TOWARD PRESENT DRAFT OF INVESTMENT CODE. ONE OFFICIAL, PROBABLY REFLECTING FOREIGN MINISTER MELO ANTUNES' VIEWS, HAS INDICATED HIS PERSONAL SATISFACTION. HE EMPHASIZED IMPROVEMENTS OVER EARLIER VERSIONS AND STRESSED THAT IMPLEMENTATION WOULD BE VERY LIBERAL. A SOCIALIST LEADER HAS DESCRIBED THE CODE AS FAIR AND OPEN, ESPECIALLY GIVEN PORTUGAL'S CURRENT POLITICAL/ECONOMIC CONTEXT. HE ASSERTED, HOWEVER, THAT FUTURE GOVERNMENTS WOULD CERTAINLY BE FREE TO TIGHTEN OR LIBERALIZE THE CODE IN RESPONSE TO POPULAR PRESSURES. MINISTER OF INTERNAL COMMERCE MAGALHAES MOTA, PRESUMABLY REFLECTING HIS PARTY'S (PPD) VIEWPOINT, SEVERELY CRITICIZED PRESENT DRAFT OF CODE AS TOO RESTRICTIVE AND INSISTED THAT IT MUST BE ALTERED.

7. INVESTMENT CODE UNLIKELY TO BE PUBLISHED FOR SEVERAL MORE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LISBON 00722 022016Z

WEEKS. BANK OF PORTUGAL REDRAFTING SEVERAL PROVISIONS TO ELIMINATE TECHNICAL DIFFICULTIES CAUSED BY CURRENT VERSION. IN ADDITION, SUGGESTIONS FOR IMPROVEMENT HAVE BEEN PRESENTED TO PERTINENT GOP OFFICIAL WHO DEMONSTRATED EXCELLENT RECEPTIVITY. POSSIBILITY EXISTS, THEREFORE, FOR ADDITIONAL REVISION. EMBASSY PLANS TO UTILIZE THIS DELAY TO DISCUSS FURTHER SUGGESTIONS. WOULD APPRECIATE COPIES OF INVESTMENT CODES PROMISED STATE 270768 OF NOV 14. CARLUCCI

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** STANDARDS, AGREEMENT DRAFT, CITIZEN PROTECTION, REPORTS, FOREIGN INVESTMENTS, ARRESTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 02 FEB 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** morefirh  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976LISBON00722  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760039-0791  
**From:** LISBON  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760292/aaaadcvk.tel  
**Line Count:** 115  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 76 STATE 21959, 76 LISBON 216  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** morefirh  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 03 MAY 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <03 MAY 2004 by BoyleJA>; APPROVED <19 MAY 2004 by morefirh>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** REVISED DRAFT FOREIGN INVESTMENT CODE  
**TAGS:** EINV, PO  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006